

**Introduced by Senator Lowenthal**

February 24, 2006

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An act to add and repeal Division 3 (commencing with Section 64100) of Title 6.7 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1754, as introduced, Lowenthal. Housing and infill infrastructure financing districts.

The Community Services District Law identifies the procedures for district formation and specifies the services that a district may provide. Among those services are the acquisition, construction, improvement, maintenance, and operation of recreation facilities, including parks and open space; and community facilities, including libraries, and child care facilities; supplying water for any beneficial use, the collection, treatment or disposal of sewage, waste water, recycled water, storm water, and solid waste; and the acquisition, construction, improvement, and maintenance of streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works.

The Bergeson-Peace Infrastructure and Economic Development Bank Act establishes the California Infrastructure and Economic Development Bank within state government and authorizes the bank to perform various activities in providing or arranging for the financing of specified economic development projects, including the issuance of specified types of bonds. Existing law requires the bank to establish criteria, priorities, and guidelines for the selection of projects to receive assistance from the bank.

The Community Redevelopment Law authorizes redevelopment agencies to pay the principal of, and interest on, indebtedness incurred to finance or refinance redevelopment, from a portion of property tax

revenues diverted from other taxing agencies. The portion of taxes diverted is the amount attributable to increases in assessed valuation of property in the redevelopment project area subsequent to establishment thereof. This method of financing is commonly known as “tax increment” financing and is specifically authorized by Section 16 of Article XVI of the California Constitution.

Existing law requires a redevelopment agency to use at least 20% of its tax increment revenues to increase, improve, and preserve low- and moderate-income housing available at affordable cost to persons and families of low or moderate income and lower, very low, and extremely low income households unless the agency makes certain findings. Under existing law, there are programs that provide assistance for, among other things, multifamily housing, emergency housing, farmworker housing, and homeownership for low- and very low income households, and that provide downpayment assistance for first-time homebuyers.

This bill would establish a pilot project allowing for the formation, under criteria developed by councils of governments, of housing and infill infrastructure financing districts. A city or county would be eligible to apply to its council of governments or the California Infrastructure and Economic Development Bank in order to establish a district. By requiring the councils of governments to develop criteria and before other duties with respect to the selection and establishment of districts, the bill would impose a state-mandated local program.

The bill would authorize a district to finance the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of real or other tangible property, for various purposes, including interchanges, ramps and bridges, arterial streets, parking facilities, transit facilities, sewage treatment and water reclamation plants and interceptor pipes, facilities for the collection and treatment of water for urban uses, child care facilities, libraries, parks, recreational facilities, open space, facilities for the transfer and disposal of solid waste, including transfer stations and vehicles, and housing. A district would be authorized to issue bonds and to engage in a type of tax increment financing for these purposes.

The pilot project would end on January 1, 2028, but the district would receive tax increment revenues for a period of 20 years from the date the district was established, plus an additional 10 years solely for the repayment of debt incurred before January 1, 2028.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares that local  
2 governments face significant fiscal impediments to financing the  
3 development and upgrading of essential infrastructure, including  
4 streets, parking facilities, water and sewer systems, and parks, to  
5 serve new high-density housing. It is the intent of the Legislature  
6 in enacting this act to support and contribute to the financing of  
7 this infrastructure and to accomplish all of the following:  
8 (a) Encourage the location of high-density housing so as to use  
9 available land more efficiently by complementing and enhancing  
10 regional transportation, air quality, and other regional  
11 investments, priorities, and strategies.  
12 (b) Establish a voluntary pilot project to determine whether  
13 providing resources to local governments for infrastructure and  
14 services needed for the concentrated development of high-density  
15 housing will lead to a higher level of housing constructed in  
16 locations that match regionally determined growth principles.  
17 (c) Recognize and protect the principle of local control of local  
18 land use authority of individual cities and counties, while  
19 providing additional resources to jurisdictions that are willing to  
20 approve the development of high-density housing in locations  
21 where a more intensified level of development will yield broader  
22 regional benefits.  
23 (d) Include reasonable accountability measures that will  
24 inform the state of the progress of the pilot project, including  
25 how and where the new financing mechanism adopted by this act  
26 is used.

SEC. 2. Division 3 (commencing with Section 64100) is added to Title 6.7 of the Government Code, to read:

DIVISION 3. HOUSING AND INFILL  
INFRASTRUCTURE FINANCING ACT OF 2006

CHAPTER 1. GENERAL PROVISIONS

64100. (a) There is hereby established a pilot project allowing for no more than 100 independent special districts, to be known as housing and infrastructure financing districts, throughout the state for the purpose of constructing housing and the infrastructure necessary to serve that housing.

(b) It is the priority of the state in this pilot project to promote high-density housing development close to jobs and transit and reduce vehicle miles traveled by promoting pedestrian-oriented connections between residential and commercial components of the district.

64101. For purposes of this division, “housing and infill infrastructure financing district” means a legally constituted independent governmental entity established pursuant to this division for the sole purpose of financing housing and the infrastructure necessary to serve that housing.

64102. This division shall become inoperative on January 1, 2028. However, a housing and infill infrastructure financing district shall receive (a) an allocation of funds pursuant to Section 64135 for a period of 20 years after the date upon which the district was established, plus an additional period of 10 years solely for the repayment of debt incurred before January 1, 2028; and (b) any city or county shall continue to receive the allocation of funds calculated in accordance with subdivision (c) of Section 64135.

CHAPTER 2. IDENTIFICATION AND ESTABLISHMENT OF  
HOUSING AND INFILL INFRASTRUCTURE DISTRICTS

64110. (a) Each council of governments shall develop criteria for the establishment and location of housing and infill infrastructure financing districts within its region. Criteria may be developed, or based upon, a collaborative regional growth

1 vision, blueprint, or other similar regional planning effort that  
2 identifies areas and locations where additional job growth,  
3 high-density housing, or other development is preferred to be  
4 concentrated to complement and enhance regional transportation,  
5 air quality, and other regional priorities and strategies, including,  
6 but not limited to, reducing vehicle miles traveled and improving  
7 the regional jobs-housing balance.

8 (b) Each council of governments shall present its proposed  
9 criteria to the California Infrastructure and Economic  
10 Development Bank and consider the comments of the bank  
11 before adopting the final regional criteria.

12 (c) Each council of governments shall develop a process that  
13 includes the development of draft criteria and the opportunity for  
14 individual local governments and the public to provide input  
15 before the draft criteria become final.

16 64111. (a) On or before January 1, 2009, a city or a county  
17 may apply to its council of governments, or the California  
18 Infrastructure and Economic Development Bank in those areas  
19 without a council of governments, to establish a housing and  
20 infill infrastructure financing district within its jurisdictional  
21 boundaries or sphere of influence.

22 (b) The application shall demonstrate how the location of the  
23 district conforms to the regional criteria established by the  
24 council of governments and shall include the plan described in  
25 Section 64113.

26 64112. (a) The council of governments shall evaluate each  
27 application, determine whether the proposed district is consistent  
28 with the established criteria, and rank those applications that  
29 conform to the criteria. Draft rankings shall be presented at one  
30 or more public hearings and shall be modified as appropriate  
31 following the receipt of public input. On or before July 1, 2009,  
32 after the conclusion of the period of public input and  
33 modification, the council of governments shall publish its  
34 proposed rankings. An applicant city or county may appeal the  
35 proposed rankings to the governing body of the council of  
36 governments if a ranking fails to comply with the selection  
37 criteria developed by the region. On or before September 1,  
38 2009, after consideration of information presented during the  
39 appeals process, the council of governments shall adopt its final  
40 rankings and submit its recommendation to the California

1 Infrastructure and Economic Development Bank of the location  
2 of housing and infill infrastructure financing districts within its  
3 region.

4 (b) On or before December 31, 2009, the California  
5 Infrastructure and Economic Development Bank, after  
6 consideration of the ratings and rankings received by each  
7 council of governments, shall publish the locations of the  
8 housing and infill infrastructure financing districts. It is the intent  
9 of the Legislature that the California Infrastructure and Economic  
10 Development Bank defer to the recommendations and priorities  
11 of the councils of government unless it finds, based upon  
12 substantial evidence, that a recommended project is inconsistent  
13 with the priorities described in subdivisions (a), (b), and (c) of  
14 Section 65041.1. The California Infrastructure and Economic  
15 Development Bank may choose to reorder the rankings submitted  
16 by the council of governments after conferring and consulting  
17 with the council of governments or with the affected cities and  
18 counties in those areas without a council of governments.

19 64113. (a) A housing and infill infrastructure financing  
20 district shall not exceed 100 acres in size nor be located within  
21 the boundaries of a redevelopment project area established  
22 pursuant to the Community Redevelopment Law.

23 (b) In establishing districts, a priority shall be given to districts  
24 that achieve or exceed residential densities of at least 40 units per  
25 acre averaged across the district, but a district shall not be  
26 approved with densities less than 25 units per acre. Commercial,  
27 retail, office space, and other uses compatible with residential  
28 development may be included within a district but shall not  
29 exceed 30 percent of the total land area of a district.

30 (c) A district shall include a minimum of 500 residential units.

31 64114. (a) Solely in response to an application received  
32 pursuant to Section 64111, each of the councils of governments  
33 may establish and determine the location of housing and infill  
34 infrastructure financing districts within its region as follows:

35 (1) The Southern California Association of Governments may  
36 establish 25 housing and infill infrastructure financing districts.

37 (2) The Association of Bay Area Governments may establish  
38 20 housing and infill infrastructure financing districts.

1 (3) The San Diego Association of Governments and  
2 Sacramento Area Council of Governments may each establish 15  
3 housing and infill infrastructure financing districts.

4 (b) Solely in response to an application received pursuant to  
5 Section 64111, the California Infrastructure and Economic  
6 Development Bank shall select the location and establish 25  
7 housing and infill infrastructure financing districts.

8 (c) The governing body of a council of governments shall  
9 institute proceedings for the establishment of a district selected  
10 pursuant to an application submitted pursuant to Section 64111  
11 by the adoption of a resolution of intention to establish the  
12 proposed district and shall do all of the following:

13 (1) State that a housing and infill infrastructure financing  
14 district is proposed to be established under the terms of this  
15 division and describe the boundaries of the proposed district.

16 (2) Describe the housing and state the type of public facilities  
17 proposed to be financed by the district in accordance with the  
18 Infrastructure Financing Plan adopted pursuant to Section 64111.  
19 The district may only finance public facilities authorized by  
20 Section 64131 and only in accordance with the infrastructure  
21 financing plan adopted pursuant to Section 64131.

22 (3) State that incremental property tax revenue from the city or  
23 county within which the district is located and the school entity  
24 within which the district is located may be used to finance these  
25 public facilities.

26 (4) Fix a time and place for a public hearing on the proposal.

27 (d) The governing body shall mail a copy of the resolution of  
28 intention to each owner of land within the district, the city or  
29 county within which the district is located, and the school entity  
30 within which the district is located.

31 64115. The legislative body of a housing and infill  
32 infrastructure financing district shall be comprised of two  
33 members of the governing body of the council of governments;  
34 one member appointed by the State Infrastructure Bank; one  
35 member with professional training and experience in housing  
36 economics appointed by the governing body of the council of  
37 governments; and one member with professional training and  
38 experience in government finance appointed by the governing  
39 body of the council of governments.

## CHAPTER 3. INFRASTRUCTURE FINANCING PLAN

64120. (a) Before submitting an application pursuant to Section 64111, a city or county shall adopt a housing and infill infrastructure financing plan.

(b) The plan shall include text and a diagram or diagrams that specify all of the following in detail:

(1) The distribution, location, and extent of residential uses, and commercial or mixed uses if any, within the district.

(2) The proposed densities of residential development in the district in terms of units per acre.

(3) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, parks, and other essential facilities proposed to be located within the district covered by the plan and needed to support the housing described in paragraph (1). At least 70 percent of the funds used to construct or reconstruct infrastructure pursuant to the plan shall support the residential development within the district.

(4) A program of implementation measures, including regulations, programs, public works projects, residential development projects, and financing measures necessary to carry out paragraphs (1) and (2).

(5) A program to ensure that 15 percent of the housing developed within the district is affordable for low- and moderate-income families with not less than 5 percent affordable to very low income, 5 percent affordable to low-income, and 5 percent affordable to moderate-income families.

(6) A program of services and mitigation measures required by the residential, commercial, or mixed uses included within the district. These services and mitigation measures may also benefit existing residents and areas of the community affected by the development and may include improvements and services for streets, parks, libraries, environmental mitigation, improvements to local schools, and other measures.

64121. The plan shall provide that residential development within the district that conforms to the general plan land use policies, zoning ordinance, housing and infrastructure plan, and other rules and regulations that apply to residential development



1 within the jurisdiction, on the date that an application for  
2 residential development is deemed “complete” within the  
3 meaning of Section 65944, shall be a “use by right” as that  
4 phrase is defined in Section 65584.3.

5 64122. The city or county shall rezone or take any other  
6 action as might be necessary, including, but not limited to,  
7 amendments to its general plan and zoning ordinance, to  
8 implement the plan and allow development of residential uses  
9 within the district within 90 days of the establishment of a  
10 housing and infill infrastructure district within the city or county  
11 pursuant to Section 64113.

12 64123. (a) A housing and infill infrastructure district plan  
13 shall be prepared, adopted, and amended in the same manner as a  
14 general plan, except that a housing and infill infrastructure  
15 district plan may be adopted by resolution or ordinance and may  
16 be amended as often as deemed necessary by the legislative  
17 body, to meet the objectives of the plan.

18 (b) A housing and infill infrastructure district plan may be  
19 repealed in the same manner as it is required to be amended.

20 64124. Within 30 days of the establishment of a housing and  
21 infill infrastructure district, the city or county shall prepare any  
22 report required by the California Environmental Quality Act  
23 (Division 13 (commencing with Section 21000) of the Public  
24 Resources Code) that pertains to the plan adopted pursuant to  
25 subdivision (a) of Section 64120. After compliance with that act,  
26 the city or county shall send a copy of the report and the plan, as  
27 it may have been modified as a result of environmental review to  
28 the housing and infill infrastructure financing district.

29 64125. (a) The district shall provide 14 days notice by  
30 publication twice in a newspaper of general circulation of the  
31 time and place for the public hearing to consider the adoption of  
32 housing and infill infrastructure financing plan submitted  
33 pursuant to Section 64120. The plan shall be sent to each owner  
34 of land within the district together with any report required by the  
35 California Environmental Quality Act (Division 13 (commencing  
36 with Section 21000) of the Public Resources Code) that pertains  
37 to the proposed public facilities or the proposed housing for  
38 which the public facilities are needed prepared pursuant to  
39 Section 64124 and shall be made available for public inspection.

(b) The governing body of the district shall add an economic analysis of the area included within the district that demonstrates the annual difference between revenues generated from development within the district and the amount of revenue necessary service debt for capital costs or otherwise provide facilities and services, including the affordable housing required pursuant to paragraph (5) of subdivision (b) of Section 64120.

(c) The governing body of the district may modify the plan by reducing the cost of proposed housing or public facilities, by reducing the amount of proposed debt, or by reducing the portion, amount, or duration of incremental tax revenues to be committed to the district. The governing body of the district may not modify the plan by changing the housing or public facilities that will be financed pursuant to the plan.

#### CHAPTER 4. FINANCING OF HOUSING AND FACILITIES

64130. (a) The revenues available pursuant to Section 64135 may be used directly for work allowed pursuant to Section 64131, may be accumulated for a period not to exceed five years to provide a fund for that work, may be pledged to pay the principal of, and interest on, bonds issued pursuant to Section 64140 or Article 4 (commencing with Section 53397.1) of Chapter 2.8 of Part 1 of Division 2 of Title 5, or may be pledged to pay the principal of, and interest on, bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) or the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5), the proceeds of which have been or will be used entirely for allowable purposes of the district. The revenue of the district may also be advanced for allowable purposes of the district to an Integrated Financing District established pursuant to Chapter 1.5 (commencing with Section 53175) of Part 1 of Division 2 of Title 5, in which case the district may be party to a reimbursement agreement established pursuant to that chapter.

(b) The legislative body of the district may enter into an agreement with any affected taxing entity providing for the construction of, or assistance in, financing public facilities.

64131. (a) A district may finance the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b), and may finance planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of that property. A district may only finance the purchase of facilities for which construction is completed, as determined by the legislative body.

(b) A district may finance housing and public facilities, including, but not limited to, all of the following:

(1) Interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Child care facilities.

(5) Libraries.

(6) Parks, recreational facilities, and open space.

(7) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(8) Housing.

(c) A district that finances dwelling units shall ensure that 15 percent of the housing developed within the district is affordable for low- and moderate-income families as defined in Section 50093 of the Health and Safety Code, with not less than 5 percent affordable to very low income, 5 percent affordable to low-income, and 5 percent affordable to moderate-income families.

64135. (a) A housing and infill infrastructure district plan adopted pursuant to Section 64130 may contain a provision that taxes, if any, levied upon taxable property in the area included within the plan each year by or for the benefit of school entities or the city or county in which the district is located after the effective date of the resolution or ordinance approving the plan, shall be divided as follows:

(1) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of the school entities and the local government upon the total sum of

1 the assessed value of the taxable property in the district as shown  
2 upon the assessment roll used in connection with the taxation of  
3 that property by the school entities and the local government, last  
4 equalized before the effective date of the ordinance or resolution,  
5 shall be allocated to and when collected shall be paid to the  
6 respective school entities and the local government as taxes by or  
7 for the school entities and the local government on all other  
8 property are paid. (For the purpose of allocating taxes levied by  
9 or for any school entity that did not include the territory in a  
10 district on the effective date of the ordinance or resolution, but to  
11 which that territory has been annexed or otherwise included after  
12 that effective date, the assessment roll of the county last  
13 equalized on the effective date of the ordinance or resolution  
14 shall be used in determining the assessed valuation of the taxable  
15 property in the project on the effective date.)

16 (2) That portion of the levied taxes each year in excess of the  
17 amount identified in paragraph (1), shall be allocated to and  
18 when collected shall be paid into a special fund of the district to  
19 pay the principal of, and interest on, loans, moneys advanced to,  
20 or indebtedness (whether funded, refunded, assumed, or  
21 otherwise) incurred by the district to finance or refinance, in  
22 whole or in part, the plan adopted pursuant to Section 64130.  
23 Unless and until the total assessed valuation of the taxable  
24 property in a housing and infill infrastructure financing district  
25 exceeds the total assessed value of the taxable property in that  
26 project as shown by the last equalized assessment roll referred to  
27 in subdivision (a), all of the taxes levied and collected upon the  
28 taxable property in the district shall be paid to the respective  
29 school entities. When the loans, advances, and indebtedness, if  
30 any, and interest thereon, have been paid, all moneys thereafter  
31 received from taxes upon the taxable property in the district shall  
32 be paid to the respective school entities as taxes on all other  
33 property are paid.

34 (3) That portion of the taxes in excess of the amount identified  
35 in subdivision (a) that is attributable to a tax rate levied by a  
36 school entity for the purpose of producing revenues in an amount  
37 sufficient to make annual repayments of the principal of, and the  
38 interest on, any bonded indebtedness for the acquisition or  
39 improvement of real property shall be allocated to, and when  
40 collected shall be paid into, the fund of that school entity.

(b) For purposes of this section, the phrase “school entities” shall be defined as in paragraph (f) of Section 95 of the Revenue and Taxation Code.

(c) A city or county that establishes a housing and infill infrastructure financing district shall receive five hundred dollars (\$500) per year per residential unit constructed within the district to offset the cost of providing services which are of benefit to that unit. This amount shall increase annually by the increase in the assessed valuation.

#### CHAPTER 5. BONDS

64140. The governing body of the district may, by majority vote, initiate proceedings to issue bonds pursuant to this chapter by adopting a resolution stating its intent to issue the bonds and providing the following:

- (a) The issuance of bonds in one or more series.
- (b) The principal amount of the bonds.
- (c) The date the bonds will bear.
- (d) The date of maturity of the bonds.
- (e) The denomination of the bonds.
- (f) The form of the bonds.
- (g) The manner of execution of the bonds.
- (h) The medium of payment in which the bonds are payable.
- (i) The place or manner of payment and any requirements for registration of the bonds.
- (j) The terms of call or redemption, with or without premium.

64141. The resolution adopted pursuant to Section 64140 shall contain all of the following information:

- (a) A description of the housing and infill infrastructure facilities to be financed with the proceeds of the proposed bond issue.
- (b) The estimated cost of the facilities, the estimated cost of preparing and issuing the bonds, and the principal amount of the proposed bond issuance.
- (c) The maximum interest rate and discount on the proposed bond issuance.
- (d) A determination of the amount of tax revenue available, or estimated to be available, for the payment of the principal of, and interest on, the bonds.

1 (f) A finding that the amount necessary to pay the principal of,  
2 and interest on, the proposed bond issuance will be less than, or  
3 equal to, the amount determined pursuant to subdivision (e).

4 64142. The clerk of the legislative body shall publish the  
5 resolution adopted pursuant to Section 64140 once a day for at  
6 least seven successive days in a newspaper published in the city  
7 or county at least six days a week, or at least once a week for two  
8 successive weeks in a newspaper published in the city or county  
9 less than six days a week.

10 64143. The legislative body may proceed with the issuance of  
11 the bonds in accordance with the resolution adopted pursuant to  
12 Section 64140 after the close of the publication period set forth in  
13 Section 64142.

14  
15 CHAPTER 6. REPORTING  
16

17 64145. (a) On or before July 1 of each fiscal year in which a  
18 housing and infill infrastructure planning district is in effect, the  
19 district shall submit a report to the California Infrastructure and  
20 Economic Development Bank that includes the following  
21 information:

22 (1) Amount of money allocated to the district by the county  
23 auditor pursuant to subdivision (b) of Section 64135.

24 (2) The number of building permits issued for units approved  
25 under this program.

26 (3) The purposes for which the money allocated to the local  
27 government by the county auditor was used, including any  
28 deposits into an account for use within five years' time.

29 (b) On or before July 1 of the fifth fiscal year after the district  
30 is established and every five years thereafter, the district shall  
31 submit a report to the California Infrastructure and Economic  
32 Development Bank updating the fiscal analysis developed  
33 pursuant to Section 64130.

34 SEC. 3. If the Commission on State Mandates determines that  
35 this act contains costs mandated by the state, reimbursement to  
36 local agencies and school districts for those costs shall be made  
37 pursuant to Part 7 (commencing with Section 17500) of Division  
38 4 of Title 2 of the Government Code.

O